

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

Scott Everett,

*Plaintiff,*

v.

Jakub Kostecki,

*Defendant.*

Civil Action No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Scott Everett, in support of his Complaint against Defendant Jakub Kostecki, states the following:

**NATURE OF THE ACTION**

1. Scott Everett has spent his career building things. S2 Capital, the business he founded more than a decade ago, invests in multifamily apartment buildings and improves them for the benefit of the tenants. Through hard work and good decision-making, Mr. Everett and his team at S2 Capital have made significant returns for S2 Capital's partners.

2. Jakub Kostecki has spent his adult life stealing from people. He was convicted of crimes in his native Poland after tricking Polish venture capitalists into paying to access Kostecki's (non-existent) connections to Silicon Valley. The Polish authorities issued a public appeal to help locate Kostecki, but he had already fled the country. Even Kostecki's own brother, Jedrek, stated that his "tank of loyalty was empty" after Jakub had been publicly "named a scammer on the cover of a business journal" and caused police to repeatedly come to Jedrek's home.

3. Kostecki then switched scams and pretended to be planning a crypto conference. His sole intention was to steal the ticket fees from those who signed up. In parallel, he created a

charity that claimed to want to send low-income children to the (non-existent) conference. Both the conference and charity were scams from the beginning, and Kostecki canceled the conference and charity and stole the money. He was later sued in federal court and did not appear to defend himself.

4. Kostecki has since created a business committing defamation for profit. Under the X (formerly Twitter) account “LPWhisperer,” Kostecki has amassed a substantial following by falsely accusing prominent real estate investors (the general partners of real estate projects) of stealing money from their limited partners (among other crimes and frauds). But while Kostecki pretends to be an ally of the limited partners “abused” by their general partners, he is nothing of the sort. His sole purpose for creating the LPWhisperer account is to illegitimately make money off the limited partners and general partners alike.

5. Kostecki steals from the limited partners. He pretends to have sensitive information that will help the limited partners in disputes with the general partners. Typically, he tries to sell stolen confidential information for tens of thousands of dollars. But Kostecki has no such information and will simply steal the money when he receives it.

6. Kostecki extorts the general partners he attacks. His “business plan” is to whip up public anger about (non-existent) wrongdoing by the general partner. The more negative attention Kostecki generates as LPWhisperer, the more reputational damage the general partner suffers. After his attacks reach critical mass, Kostecki will demand money to stop the attacks, threatening to bring the general partner to his knees unless he is paid. As Kostecki has brazenly said (and as reprinted below), in today’s America, it doesn’t matter if what you say is true if you say it loud enough on the internet—and false statements have the power to ruin reputations and livelihoods.

7. Kostecki targeted Mr. Everett after Mr. Everett had the temerity to publicly defend his business on X. Because attacks on Mr. Everett's business were not generating enough attention, Kostecki began posting pictures of Mr. Everett's wife and home while juxtaposing false accusations of theft. While Kostecki thought this would intimidate Mr. Everett, it has only strengthened his resolve.

8. Kostecki thought he could get away with it through remaining anonymous. But his greed caused him to make a series of grave errors that gave the world proof that Kostecki is LPWhisperer. Kostecki was tricked by a former law enforcement officer into disclosing LPWhisperer's bank account information, which was in the name of Kostecki's minor son, and which had the address of his daughter's dorm room at college. Once again, Kostecki cynically roped his family into his crooked schemes for his own convenience.

9. To be clear, everything that Kostecki has said about Mr. Everett has been a lie. Mr. Everett looks forward to showing the world the strong returns he has delivered to investors, and how he has done so honestly. But regardless of the truth, Kostecki has succeeded in generating intense attention around his defamatory nonsense. Kostecki is one of the rare examples of attempting to profit off defamation and extortion, and he cannot be allowed to get away with it.

10. Scott Everett brings this suit to vindicate his rights under civil law, to restore his reputation as an upstanding real estate investor and member of the Dallas business community, and to establish Kostecki's liability for the malicious harm he has caused solely for his own profit.

### **PARTIES AND RELEVANT NON-PARTIES**

11. Plaintiff Scott Everett is a citizen of the United States and the State of Texas and is a resident and domiciliary of Dallas, Texas. Mr. Everett is the founder and CEO of S2 Capital LLC.<sup>1</sup>

12. Defendant Jakub Kostecki is a citizen of Poland and resident and domiciliary of Boulder, Colorado. Kostecki owns and operates multiple accounts on the social media platform X, including an account named “@LPWhisperer.”<sup>2</sup>

13. Non-Party S2 Capital is a respected investment firm headquartered in Dallas, Texas. Mr. Everett founded S2 Capital in 2012, and since that time has grown S2 Capital into a highly successful multifamily investment platform that has generated more than \$2.4 billion in revenue from properties sold for its investors. Since its founding, S2 Capital has acquired more than 46,000 multi-family units throughout the United States.

### **JURISDICTION AND VENUE**

14. This Court has subject-matter jurisdiction under 28 U.S.C. § 1332 because there is complete diversity of citizenship between Plaintiff Scott Everett and Defendant Kostecki and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

15. This Court has specific personal jurisdiction over Defendant Kostecki under Texas’s long-arm statute, Tex. Civ. Prac. & Rem. Code § 17.042—which extends jurisdiction to the fullest extent possible under the Due Process Clause of the U.S. Constitution—and the Due Process Clause of the U.S. Constitution, because Kostecki committed a tort in whole or in part in the State of Texas by targeting Mr. Everett (who he knew is a Texas citizen, resident, and

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<sup>1</sup> The formal legal entity is S2C Partners LLC DBA S2 Capital LLC. For simplicity, references below are to S2 Capital.

<sup>2</sup> Jakub Kostecki, (@LPWhisperer), X, <https://x.com/LPWhisperer> (last visited Aug. 27, 2024, 11:23AM).

domiciliary) and publishing false defamatory statements about Mr. Everett (and S2 Capital) and his work in the State of Texas that were viewed by people in the State of Texas and caused harm to Mr. Everett and his reputation in the State of Texas. Moreover, exercising jurisdiction would not offend traditional notions of fair play and substantial justice because Kostecki could have—and should have—reasonably foreseen being hailed into a court in Texas to account for his tortious conduct in the State of Texas. Kostecki expressly aimed and purposefully directed his defamatory statements at Mr. Everett, a Texas citizen, resident, and domiciliary (and S2 Capital, a business with its primary place of business in Texas), knowing that the impact would be felt in Texas. In publishing his false and defamatory statements about Mr. Everett, Kostecki expressly and repeatedly referenced Mr. Everett’s residence in Dallas and business in “DFW” (Dallas-Fort Worth). Kostecki intentionally used multiple Texas sources in aid of his defamation of Mr. Everett; he repeatedly published and prominently featured in his defamatory posts photographs of Mr. Everett’s Dallas, Texas home; he repeatedly corresponded with Mr. Everett while Mr. Everett was in Dallas, Texas; and he threatened to ruin Mr. Everett’s Dallas-based business and professional reputation unless Mr. Everett paid Kostecki to stop his campaign by buying LPWhisperer; and mentioned Texas, Dallas, and/or DFW in dozens of posts accusing Mr. Everett of wrongdoing.<sup>3</sup> Kostecki even posted a map of the DFW area on X with the caption “by far the highest number of real estate scammers live here” in the context of accusing Mr. Everett (and other DFW-area real estate investors) of criminal and other wrongdoing.<sup>4</sup>

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<sup>3</sup> An advanced search on X for posts by LPWhisperer that include the words “Dallas” “DFW” or “Texas” returned dozens of results.

<sup>4</sup> Jakub Kostecki, (@LPWhisperer) (Aug. 12, 2024 2:36 PM), X, <https://x.com/LPWhisperer/status/1823065925438054814>.

16. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims in this case occurred in this District, because Mr. Everett suffered economic and reputational harm in this District, because the defamatory statements were published in this District, and because Defendant Kostecki is subject to the Court's personal jurisdiction.

## **FACTS**

### **Scott Everett Builds a Successful Real Estate Company**

17. Scott Everett founded S2 Capital in 2012 after identifying a strong market opportunity for quality multi-family real estate. Mr. Everett's strategy was novel and effective: S2 Capital invested in multi-family properties, made significant renovations and improvements to them, and launched vertically integrated businesses providing complementary services including property and construction management.

18. Thus, under Mr. Everett's leadership, S2 Capital identified and acquired properties, significantly improved them, and managed and maintained them entirely within its vertically integrated structure. Mr. Everett focused S2 Capital's efforts on markets with solid underlying fundamentals and projected future growth.

19. Mr. Everett's strategy quickly attracted investors. Mr. Everett and S2 Capital completed their first deal in 2012: S2 Capital purchased a multi-family property, renovated and improved it, and quickly attracted tenants. S2 Capital then built on its early success, executing another successful deal in 2013 and six more in 2014.

20. By 2017, the industry took notice. Inc. Magazine recognized S2 Capital—under Mr. Everett's leadership—as one of the fastest growing private companies in the United States.<sup>5</sup>

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<sup>5</sup> See Doug Cantor, *A Few years Ago, This College Dropout Was on Food Stamps. Now He Owns a \$90 Million Company*, Inc. Magazine (May 1, 2018), <https://www.inc.com/doug-cantor/30-under-30-2018-s2-capital.html>.

By 2018, S2 Capital owned more than 17,000 multi-family units in the United States (a \$1.6 billion portfolio value), and it was producing strong returns for investors.

21. In 2018, Inc. Magazine recognized Mr. Everett personally for his management of S2 Capital, including him on Inc.'s "30 Under 30" list. In 2022, Dallas Business Magazine likewise recognized Mr. Everett for his leadership, placing him on its "40 Under 40" list for his vision and management of S2 Capital.<sup>6</sup> In 2024, D Magazine included Mr. Everett on its list of the "Dallas 500."<sup>7</sup>

22. S2 Capital has acquired more than \$5.8 billion in multifamily communities since its founding. It generated strong returns for its investors, exiting more than \$2.4 billion of real estate and delivering an average 35% internal rate of return (a 2.0 multiple on invested capital), net of all fees and carry. S2 Capital has also invested hundreds of millions in upgrades and renovations across more than 46,000 units in the communities it serves. Indeed, S2 Capital has become a fixture in the Dallas community, growing rapidly from only a few employees to more than 650 employees today.<sup>8</sup>

### **Jakub Kostecki Is a Career Criminal with a Documented History of Theft, Fraud, and Extortion**

23. Jakub Kostecki is a convicted criminal who lies, cheats, and steals to get money. An investigation has shown that Kostecki has pursued a series of criminal frauds and extortion schemes for more than a decade.<sup>9</sup>

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<sup>6</sup> Dallas Business Journal, *Scott Everett*, (July 26, 2022), [https://www.bizjournals.com/dallas/potmsearch/detail/submission/6518113/Scott\\_Everett](https://www.bizjournals.com/dallas/potmsearch/detail/submission/6518113/Scott_Everett).

<sup>7</sup> D Magazine, *Dallas 500*, <https://www.dmagazine.com/dallas-500-2024/chapter/real-estate/category/multifamily/>

<sup>8</sup> The employee numbers include those at S2 Capital's operational affiliate.

<sup>9</sup> Kostecki implausibly continues to deny that he is LPWhisperer (and vice versa). But Kostecki's history of scams and crimes are highly similar to his LPWhisperer extortion scam, and therefore, evidence of the similarities is evidence that he is running a common scheme or plan as he has in the past. Accordingly, evidence of his other wrongs is not only relevant to the Complaint, but they are admissible evidence to prove Kostecki is LPWhisperer.

24. Kostecki began his career of crime in his native Poland, and after moving to the United States, by targeting citizens in his native Poland. Kostecki would charge money to Polish venture capitalists to connect with his supposed connections with Silicon Valley. But Kostecki never had such connections; his operation was a scam, and he simply stole the money sent to him from Poland. And Kostecki protected his scheme through threats and intimidation. As explained in a TechCrunch article written to warn others about Kostecki's scam (and multiple similar articles published in Poland), Kostecki threatened the startups that pushed back against his fraud with reputational harm by "post[ing] a nasty story about the startup, burning them and preventing them from doing business in the US."<sup>10</sup>

25. In 2014, Kostecki was convicted in Poland of various crimes in connection with this and a long list of other wrongdoing,<sup>11</sup> and Polish authorities issued a warrant for his arrest.<sup>12</sup> Polish authorities also made a public appeal to locate Kostecki, who had gone into hiding.<sup>13</sup> Kostecki's crimes against Polish nationals generated so much attention in Poland that TechCrunch, a prominent American media company, devoted an entire article to detailing his scheme.<sup>14</sup>

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<sup>10</sup> John Biggs, *A Strange Tale of Central European Startups, Angry Investors, and Secret NDAs*, TechCrunch (Dec. 19, 2016), <https://techcrunch.com/2016/12/19/a-strange-tale-of-central-european-startups-angry-investors-and-secret-ndas>.

<sup>11</sup> Tomasz Stańkiewicz, *He Tempted Polish Companies with the Conquest of Silicon Valley. He Took the Money and Disappeared*, INN: Poland (Nov. 21, 2016), <https://innpoland.pl/130143,kusil-polskie-firmy-podbiciem-doliny-krzemowej-bral-zaliczki-szantazowal-przyparty-do-muru-atakowal>. Unofficial translation and Polish original attached as Exhibit 1. The article states that Kostecki has been convicted of fraud, theft, and tax evasion in Poland and his career has been "marked by spectacular failures and unpaid debts." David Turner, *Start-ups, Beware of Scammers!*, Pulsu Biznesu, <https://www.pb.pl/start-upy-uwaga-na-naciagaczy-847713>. Unofficial translation and Polish original attached as Exhibit 2.

<sup>12</sup> Metropolitan Police Headquarters, *Jakub Kostecki*, (Jan. 1, 2020), <https://web.archive.org/web/20200401212336/http%3A%2F%2Fposzukiwania.policja.waw.pl%2Fpz%2Fscigani%2F52363%2CJakub-Kostecki.html>. Unofficial translation and Polish original attached as Exhibit 3

<sup>13</sup> *Id.*

<sup>14</sup> John Biggs, *A Strange Tale of Central European Startups, Angry Investors, and Secret NDAs*, TechCrunch (Dec. 19, 2016), <https://techcrunch.com/2016/12/19/a-strange-tale-of-central-european-startups-angry-investors-and-secret-ndas>.



26. Kostecki wasn't out of "business" for long. With his venture capital/startup scam shut down, he pivoted to cryptocurrency scams—a fertile arena for conmen. Kostecki created an account on X (then operating as Twitter), using his account "@jacobkostecki," and claimed that he was a cryptocurrency expert. He then created a fake cryptocurrency festival, which he called "Massive Adoption," that he promised would host sixty speakers and promote the widespread adoption of major cryptocurrencies. Kostecki then advertised and allegedly sold over 2,000 tickets to the event for thousands of dollars apiece.<sup>15</sup>

27. But Kostecki never intended for the event to occur. His goal was to fraudulently induce thousands of people to pay thousands of dollars for tickets, so he could take the money and run.

28. To that end, and to ensure that he could defraud as many people as possible, Kostecki announced in October 2019 that the event was being rescheduled from November 2019 to February 2020, and then, on January 31, 2020, he canceled the event. Although Kostecki told those who had purchased tickets that he would "repay everyone," that was a lie.

29. Many observers were unsurprised when Kostecki announced that the event had been cancelled. And many others called Kostecki and his scam out on Twitter, reporting that Kostecki had cheated them out of thousands of dollars.<sup>16</sup> Once again, Kostecki's scam was so

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<sup>15</sup> See Jacob Kostecki, *Thoughts on Diversity, Inclusion and Accessibility for the Massive Adoption (Bitcoin, Crypto & Blockchain) Conference in Memphis*, Medium (May 22, 2019), [https://medium.com/@jacob\\_kostecki/thoughts-on-diversity-inclusion-and-accessibility-for-massive-adoption-in-memphis-db0bd8f2a2a1](https://medium.com/@jacob_kostecki/thoughts-on-diversity-inclusion-and-accessibility-for-massive-adoption-in-memphis-db0bd8f2a2a1).

<sup>16</sup> See, e.g., DJ LTC, X, @DJ\_LTC (Jan. 28, 2020), [https://x.com/DJ\\_LTC/status/1222342358202605568](https://x.com/DJ_LTC/status/1222342358202605568). Notably, DJ LTC appears to be referring to *yet another* Kostecki scam in his tweet.

large it attracted media attention.<sup>17</sup> Kostecki's own brother, Jedrick, who had also been harmed by Kostecki's previous scams, publicly lamented his brother's wrongdoing:

Well, he was named as a scammer on the cover of a business journal, my pregnant wife and I have multiple visits from the cops because of him and he caused me to lose work, not to mention the money he owes me. My tank of loyalty is empty.

— jędrek kostecki, interneciarz. (@jedrek) December 12, 2019

30. One of Kostecki's victims sued him for fraudulent inducement and conversion in federal court in Colorado.<sup>18</sup> But Kostecki, again, had taken the money and run. He never appeared to defend himself, and a default judgment was entered against him on January 19, 2022.<sup>19</sup>

31. Once again, Kostecki wasn't out of "business" for long. This time, Kostecki created a fake charity called "#SatsforStudents" that he claimed supported the education of children about cryptocurrency and that he claimed was affiliated with the (fraudulent) "Massive Adoption" festival.<sup>20</sup> Kostecki requested donations for his supposed charity through major cryptocurrencies.<sup>21</sup>

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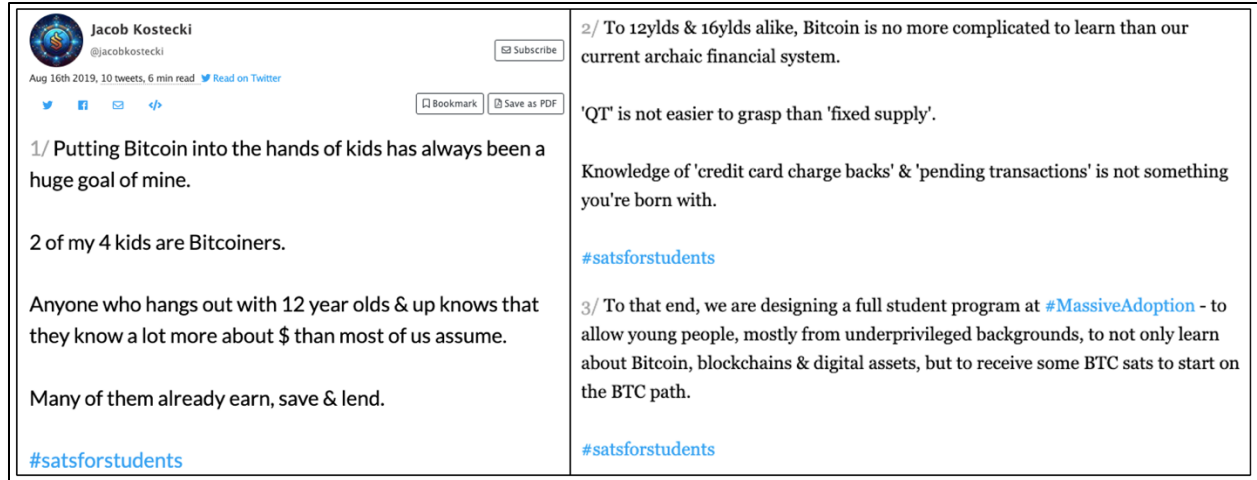
<sup>17</sup> See Amy Castor, *Sketchy Promoter of Massive Adoption Event Calls the Whole Thing Off*, Modern Consensus (Jan. 31, 2020), <https://modernconsensus.com/people/sketchy-promoter-of-massive-adoption-event-calls-the-whole-thing-off/>.

<sup>18</sup> *Gentry v. Kostecki*, No. 1:20-cv-01284 (D. Colo. filed May, 7, 2020) [Dkt 1].

<sup>19</sup> Default Judgment, *Gentry v. Kostecki*, No. 1:20-cv-01284 (D. Colo. Jan. 19, 2022) [Dkt. 43].

<sup>20</sup> Jacob Kostecki (@jacobkostecki), X (via ThreadReaderApp.com) (Aug. 16, 2019, 12:12 PM), <https://threadreaderapp.com/thread/1162396604055396352.html>.

<sup>21</sup> *Id.*



32. According to Kostecki, #SatsforStudents received more than \$25,000 in donations.<sup>22</sup>

33. But #SatsforStudents was just Kostecki's latest fraud, and soon users on X exposed it for what it was. One journalist, Amy Castor, asked Kostecki if he had registered #SatsforStudents as a charity.<sup>23</sup> Another X user reviewed donations to the various cryptocurrency wallets that Kostecki used for the purported "charity" and discovered that "[f]unds from [Kostecki's] wallets were moved and landed on [cryptocurrency] exchanges."<sup>24</sup> In short, Kostecki changed cryptocurrency wallet addresses each time he sought donations, and he would empty the wallets after receiving donations.<sup>25</sup>

<sup>22</sup> Solana Cheer (@SolanaCheer), X (Jan. 23, 2020, 6:45 PM), <https://x.com/SolanaCheer/status/1220492846295179264>.

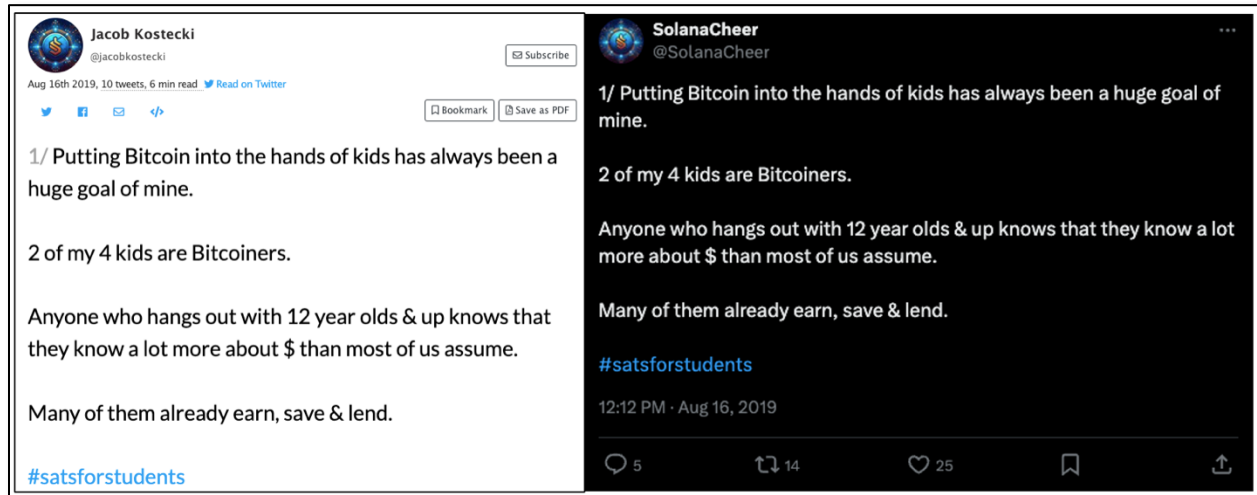
<sup>23</sup> Amy Castor, *Sketchy Promoter of Massive Adoption Event Calls the Whole Thing Off*, Modern Consensus (Jan. 31, 2020), <https://modernconsensus.com/people/sketchy-promoter-of-massive-adoption-event-calls-the-whole-thing-off/>.

<sup>24</sup> @karbongod, X (Jan. 29, 2020, 3:04 PM), <https://x.com/karbongod/status/1222611442282745858>.

<sup>25</sup> @karbongod, X (Jan. 29, 2020, 2:47 PM), <https://x.com/karbongod/status/1222607324826755074>.

### Kostecki Tries (Unsuccessfully) to Hide His Identity on X

34. Following the discovery of his then-latest scam, Kostecki changed the name of his account on X from his real name to “Solana Cheer” in an attempt to hide his identity. But he was careless (and not for the last time). Although Kostecki changed the name on his account, he did not change the account’s picture:



35. Several of Kostecki’s posts under his own name are preserved on the internet, and many users have connected the dots between his original and “rebranded” accounts.<sup>26</sup>

36. But Kostecki (yet again) was undeterred. He continued using X to promote scams and even turned to extortion. He created several (temporarily) anonymous accounts including @guyfactory, @constantraise, and @tractutor and pretended to offer consulting services for money (as he had in Poland). When he failed to deliver and his customers complained, he would

<sup>26</sup> The rebranded account was in part confirmed by Thread Reader, an application that is designed to make it easier to read lengthy “threads”—i.e., a post on X and the “thread” of “replies” responding to the initial post—that are originally published to X. See Thread Reader App, X, @threadreaderapp, <https://x.com/threadreaderapp> (describing ThreadReader as a bot on X that helps X users “read threads more easily.”). An X user can export such a “thread” of X posts and replies by mentioning @threadreaderapp and the word “#unroll” to create a mirror image of the “thread” on Thread Reader’s internet page. Kostecki himself mentioned @threadreaderapp in one of his conversations which led to Thread Reader preserving a mirror image of the thread as posted online. See Solana Cheer, @SolanaCheer, X (Aug. 16, 2019), <https://x.com/SolanaCheer/status/1162399874177875969>; see also Thread Reader App, X, @threadreaderapp (Aug. 16, 2019), <https://x.com/threadreaderapp/status/1162401082682880000> (providing link to preserved thread on Thread Reader App website).

threaten them (as he had in Poland).<sup>27</sup> Once again, however, Kostecki was ultimately exposed as various X users have connected his purportedly anonymous accounts back to him. One user even created a parody account—“Jakub ‘Conman’ Kostecki”—to warn others about his schemes:<sup>28</sup>



37. After the then-latest scam was exposed, Kostecki went dormant on X for a few months. But it wasn’t long before he had created a new scam. Kostecki was planning to execute the culmination of his criminal career: “LPWhisperer.”

#### **Kostecki Creates “LPWhisperer” to Extort General Partners and Scam Limited Partners**

38. In early 2024, Kostecki created “LPWhisperer” on X. From the beginning, Kostecki had a very specific ‘business’ plan: to destroy the reputations and businesses of

<sup>27</sup> @joethelandguy (Nov. 23, 2023), <https://x.com/joethelandguy/status/1728629863429325101>.

<sup>28</sup> See Jakub “Conman” Kostecki, @KosteckiCon2, X, (Nov. 24, 2023, 4:56 PM), <https://x.com/KosteckiCon2/status/1728170773595246622>. Incredibly, this account indicates that Kostecki poses as a real estate investment consultant and then simply steals the money he is sent. Yet another scam.

successful real estate investors (the general partners) for profit. Kostecki's scam was simple but devastatingly effective.

39. **First**, Kostecki would publicly attack the general partner in the most vicious and damaging way possible by inventing false facts and accusations against them. For example, Kostecki falsely claimed that he had inside information that a series of general partners were stealing from their investors and/or running Bernie Madoff-style Ponzi schemes. Kostecki's goal was to inflict maximum damage with his attacks, and he often made them intensely personal, including by publicly posting photographs of his victims' homes, vacations, and families and juxtaposing them alongside allegations of theft. Absolutely nothing was off limits. The sole reason why he did this was to later extort the general partner for money, promising to stop the attacks in exchange for payment.

40. Kostecki knew that, for purposes of his scheme, it didn't matter if what he claimed about a general partner was true: he knew that simply by publicly leveling his accusations he would generate a cloud of suspicion over his victims that could destroy limited partners' trust in them and, thus, the general partners' ability to do business or fundraise. He explicitly admitted as much to Mr. Everett, as shown below.

41. **Second**, Kostecki would offer to stop his attacks if paid a large sum of money. Kostecki knew that many general partners would be so threatened by his false attacks that they would pay him to stop. As Kostecki later admitted to Mr. Everett, he knew that if his victims did not pay him to stop his attacks, they would be abandoned by everyone close to them and have nothing to do except "yell[] at the clouds."

42. **Third**, Kostecki would at the same time scam limited partners to real estate ventures. Kostecki would use his false accusations against general partners to portray himself as

“helping the little guy”—the limited partners purportedly hurt by the (false, manufactured) bad acts of the general partners. He would claim to have inside “dirt” on the general partners that he would sell to the highest bidder. But, of course, Kostecki never had any such “dirt” or information to sell. He would just do what he has always done: take the money and run. He would pretend to have something of value, fraudulently induce victims to send him money, and then not deliver the goods. He had done so many times before.

43. Over just a few months, Kostecki would employ his playbook again and again to extort general partners and their supporters and scam their limited partners. But as Kostecki would soon learn, Mr. Everett refused to be a victim.

#### **Kostecki Tries to Destroy Mr. Everett’s Business and Set Him Up for Extortion**

44. Shortly after launching his LPWhisperer scam, Kostecki began focusing on Scott Everett and S2 Capital.<sup>29</sup> On July 6, 2024, Kostecki sought “tips” about Mr. Everett and S2 Capital from the general public on X.<sup>30</sup> Mr. Everett was immensely proud of the business he had worked so hard to build and, at this point, did not understand just how malicious Kostecki is. So his first instinct was to publicly engage with Kostecki and offer to answer any questions he might have:

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<sup>29</sup> LPWhisperer, @LPWhisperer, X, (July 5, 2024, 11:27 AM), <https://x.com/LPWhisperer/status/1809247803220107667> (falsely stating that Mr. Everett did not “know[] anything about operating real estate. He overpays, underoperates and has wiped out a lot of equity.”).

<sup>30</sup> LPWhisperer, @LPWhisperer, X, (July 6, 2024, 9:06 AM), <https://x.com/LPWhisperer/status/1809574556815773893>.



45. After Mr. Everett responded in another post and provided details about his past successes,<sup>31</sup> Kostecki knew he had a “fish on the line”—a general partner who clearly cared about his reputation, would be bothered by attacks on his business, and was willing to engage with him. Kostecki pounced.

46. Two days later, Kostecki called out S2 Capital as investing in “piece of s--t assets” and attacked its business. Mr. Everett, continuing to give Kostecki the benefit of the doubt, responded with an offer to have a live discussion with Kostecki of the issues so he could explain the falsity of Kostecki’s claims:

<sup>31</sup> Scott Everett (@s2ref), X (July 13, 2024, 3:05 PM), <https://x.com/s2ref/status/1812201759919534380> (Mr. Everett stating that he had more than \$1B of distributions to investors across \$2.7B in sales at 51% gross IRR.) In this and other responses by Mr. Everett to Kostecki’s attacks, Kostecki deflected and/or ignored the answers because he did not want to learn the truth.





47. Kostecki never responded. The truth didn't matter to Kostecki. A public discussion of the facts would undermine his fraudulent scheme, which was based not on facts but on the public dissemination of damaging falsehoods to the largest possible audience. Not to mention that Kostecki—as a conman and not someone who knew anything meaningful about real estate—barely understood the terms he was bandying about.

48. So, instead of engaging in a legitimate discussion, Kostecki doubled down on his false attacks. Over the next month, Kostecki repeatedly accused Mr. Everett of stealing,<sup>32</sup> engaging in self-dealing,<sup>33</sup> being a fraud,<sup>34</sup> and cheating his investors.<sup>35</sup> He told the public that Mr. Everett is “a bully and a thug” who “attack[s]” when “threatened [and] about to lose.”<sup>36</sup> All

<sup>32</sup> Jakub Kostecki, (@LPWhisperer), X (July 29, 2024, 3:11 PM), <https://x.com/LPWhisperer/status/1818001509218402655>.

<sup>33</sup> Jakub Kostecki, (@LPWhisperer), X (July 8, 2024, 8:47 PM), <https://x.com/LPWhisperer/status/1810475726774378620>.

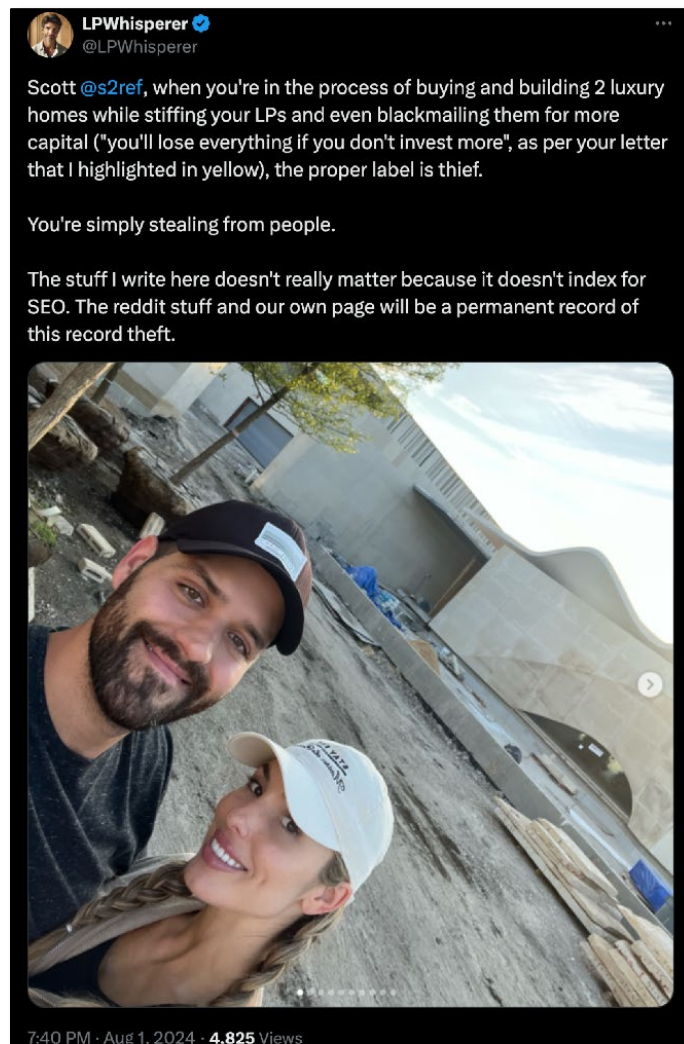
<sup>34</sup> Jakub Kostecki, (@LPWhisperer), X (July 17, 2024, 8:00 PM), <https://x.com/LPWhisperer/status/1813725510687707260>.

<sup>35</sup> Jakub Kostecki, (@LPWhisperer), X, (August 24, 2024 4:59 PM), <https://x.com/LPWhisperer/status/1827450569411428670>.

<sup>36</sup> Jakub Kostecki, (@LPWhisperer), X (July 19, 2024, 9:07 PM), <https://x.com/LPWhisperer/status/1814467021804871799>.

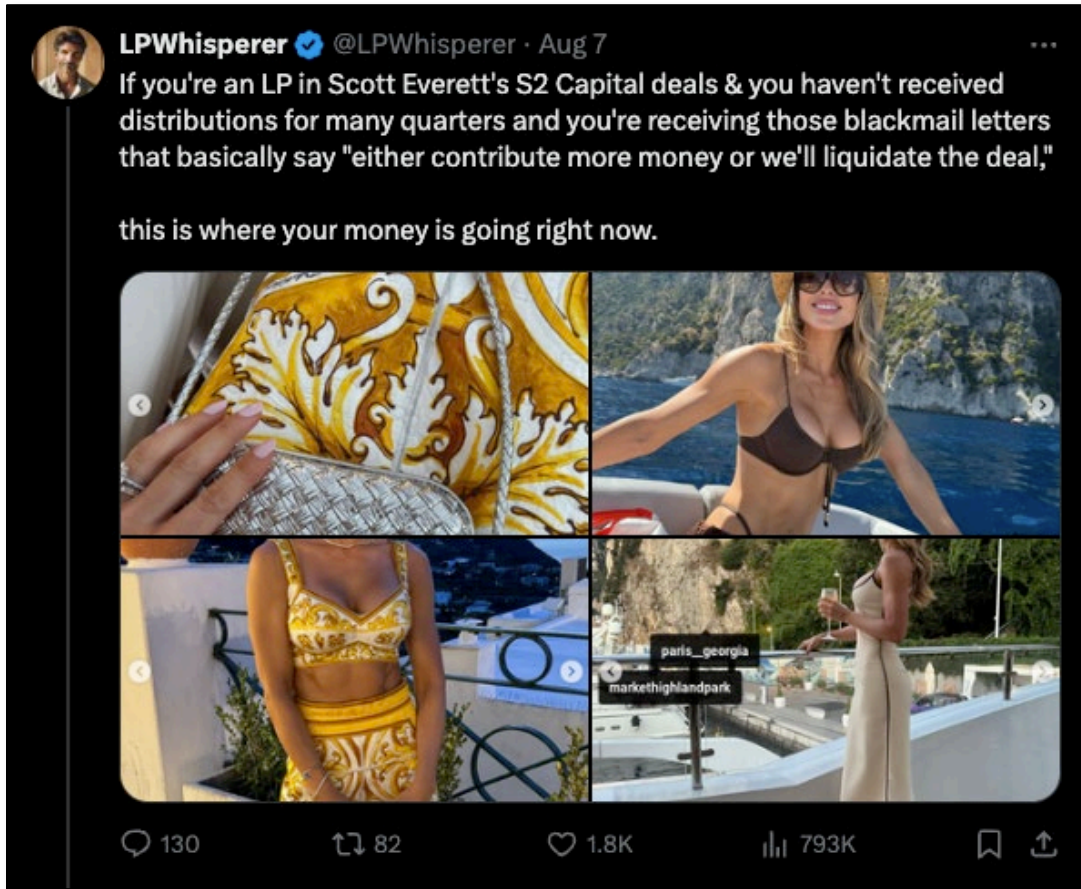
of Kostecki's attacks were false—and he knew they were false—but he didn't care. Inflicting maximum harm and sowing seeds of doubt with his target's investors and potential investors—not telling the truth—is what matters for Kostecki and his scheme so that he can then extort his target.

49. So Kostecki turned up the heat. At the end of July, Kostecki further escalated his attacks on Mr. Everett by making them deeply personal. He started publishing multiple photos of Mr. Everett and his wife alongside false accusations that Mr. Everett had stolen his partners' investments to build his house:<sup>37</sup>



<sup>37</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 7, 2024, 3:23 PM), <https://x.com/LPWhisperer/status/1821265935912857971>.

50. Kostecki further claimed that Mr. Everett had blackmailed his investors and stolen their money to buy luxury goods and expensive trips:<sup>38</sup>



51. By dragging Mr. Everett's wife and home into public view, Kostecki hoped to drive more media engagement and deeply anger Mr. Everett to enhance Kostecki's leverage and negotiating position for an extortion attempt to come. And, to some extent, Kostecki succeeded in his dishonest objectives: his posts targeting Mr. Everett drove substantial engagement to the LPWhisperer account (which Kostecki bragged about) and deeply harmed Mr. Everett and his family.

<sup>38</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 7, 2024, 2:23 PM), <https://x.com/LPWhisperer/status/1821265935912857971>.

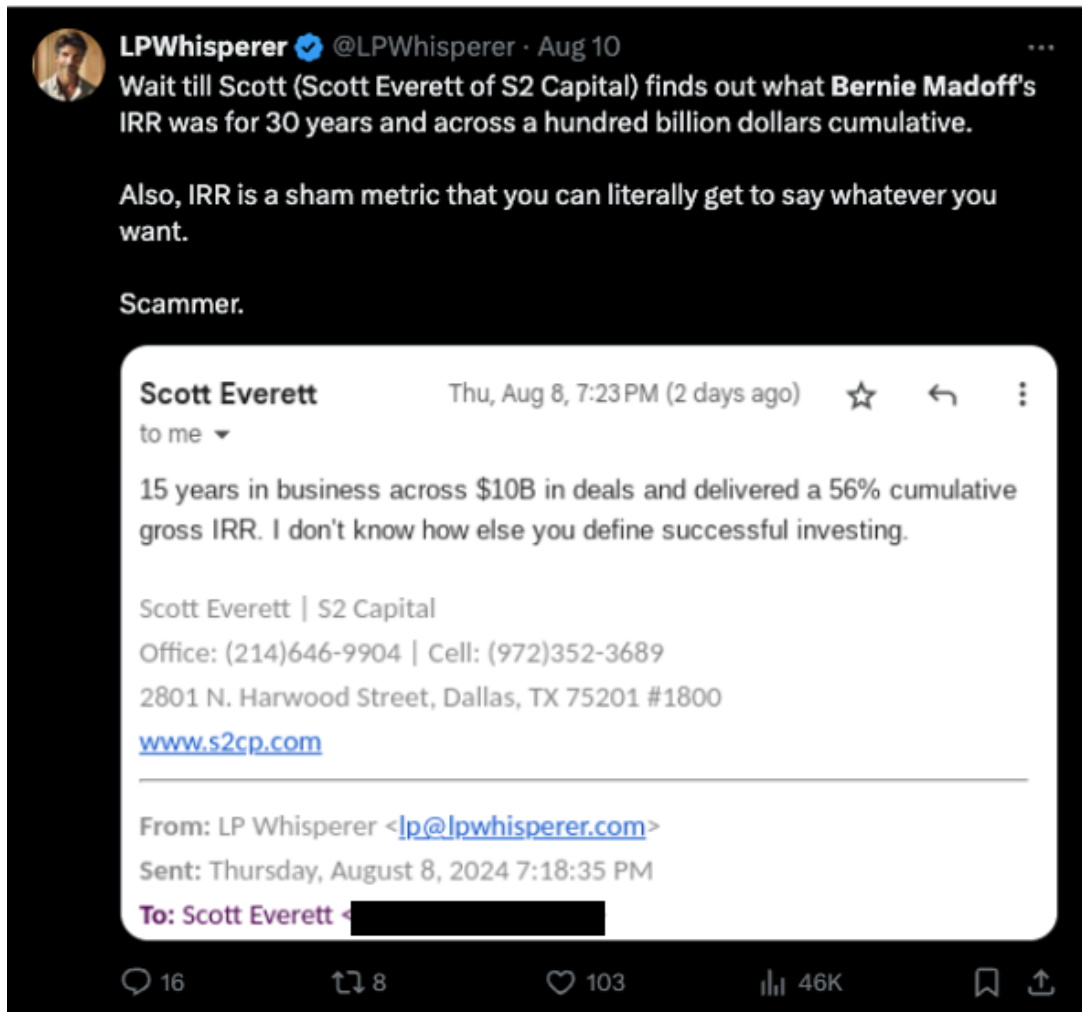
52. Notably, the above examples are far from isolated instances in which Kostecki published photos of Mr. Everett's wife and home alongside his false accusations—Kostecki published numerous photos of Mr. Everett's and his family's residence (including even its architectural plans) in posts accusing Mr. Everett of stealing investor money.<sup>39</sup>

53. At the same time as Kostecki was viciously publicly attacking Mr. Everett, Mr. Everett privately engaged with Kostecki, repeatedly explaining the falsity of his attacks, the legitimacy of S2 Capital's business, and demanding that Kostecki cease his attacks. Mr. Everett explained—repeatedly and in detail—the billions of dollars that he had made for his investors over more than ten years. But, of course, none of those facts mattered to Kostecki, who had no intention of telling the truth. To the contrary, Kostecki began publishing Mr. Everett's private correspondence on X while calling him out as “Bernie Madoff” to the public.<sup>40</sup>

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<sup>39</sup> See, e.g., Jakub Kostecki, (@LPWhisperer), X (Aug. 9, 2024, 10:22 AM), <https://x.com/LPWhisperer/status/1821914889314824703>.

<sup>40</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 10, 2024, 3:21 PM), <https://x.com/LPWhisperer/status/1822352606607679727>. The picture of the tweet redacts Mr. Everett's email address, which Kostecki included in the original.



54. Kostecki knew that his best chance to extort payment from Mr. Everett was to flood the information space with false claims. He knew that Mr. Everett would likely only submit to his coming extortion demands if he posed a credible threat to Mr. Everett's business. So that's exactly what Kostecki did, through relentless attacks against Mr. Everett and his business. Kostecki published at least 100 posts and hundreds of replies about Mr. Everett and S2 Capital within the span of just seven weeks and even "pinned" a post of Mr. Everett and his wife to the top of his X feed. He started to claim that Mr. Everett's businesses were failing, that his "principal is all washed

out,”<sup>41</sup> that he vacationed while S2 Capital floundered, and that he would soon be at the “[t]op of Google” because “S2 [Capital] CEO Scott Everett [is being] investigated for wrongdoing.”<sup>42</sup> Again, every one of those statements was a complete lie that Kostecki invented to manufacture leverage for his coming extortion demand.

55. On August 8, Kostecki gave Mr. Everett a vivid preview of what his future could be unless Kostecki stopped his attacks. Kostecki told Mr. Everett in no uncertain terms that it did not matter whether any of what he was publishing was true; in two years, Mr. Everett would be ruined and “left on [his] own yelling at the clouds”:

**From:** LP Whisperer <lp@lpwhisperer.com>

**Date:** Thursday, August 8, 2024 at 8:24 PM

**To:** Scott Everett <severett@s2cp.com>

**Subject:** Re: blocked

And one last thing because I know you're in crisis / survival mode:  
Play this out. Two years from now - hundreds of new investors have said no to you because of what they read about you, many of your business partners have pulled away, your relationships are suffering, there are hundreds of negative mentions online that can't be taken down. All of this is happening. There's no court that can stop this. If the information isn't true and you can sue and write blog posts saying they're not true, but it's out there, people have read it and you're left on your own yelling at the clouds.

56. That is, unless Mr. Everett paid Kostecki to stop.

<sup>41</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 1, 2024, 4:14 PM), <https://x.com/LPWhisperer/status/1819104363849134186>.

<sup>42</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 8, 2024, 5:27 PM), <https://x.com/LPWhisperer/status/1821659398890193282>.



**Kostecki Outs Himself as LPWhisperer to an  
Undercover Former Law Enforcement Officer  
Posing as Disgruntled Limited Partner**

57. At the same time as Kostecki was trying to destroy Mr. Everett's reputation and business (and threaten his family in the process), Kostecki was running a separate scam purporting to sell information about general partners that he had supposedly acquired to limited partners. But Kostecki inadvertently outed himself as LPWhisperer.

58. Mr. Everett is far from the only victim of Kostecki's LPWhisperer scam. At the same time Kostecki was attacking Mr. Everett, he tried to sell apparently stolen confidential information to aggrieved limited partners of *other* general partners. The full extent of Kostecki's actual possession of stolen information is unclear, but his claim to have such information to sell was part of his effort to also target limited partners through the LPWhisperer scam.<sup>43</sup> Either way, Kostecki made it no secret that he was selling stolen confidential information to the highest bidder.

59. Chris Powers, another real estate investor who Kostecki had targeted, devised a plan to identify Kostecki as the person behind LPWhisperer. Although various people had noticed similarities between LPWhisperer and past Kostecki scams<sup>44</sup>—and some had even publicly accused LPWhisperer of being Kostecki<sup>45</sup>—they could not yet prove it. Mr. Powers, however, obtained that proof.

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<sup>43</sup> And to be clear, there is nothing that Kostecki possesses about Mr. Everett that could ever support his false and defamatory claims about him.

<sup>44</sup> Parker Cox, X, @carkerpox (June 25, 2024, 2:04 PM), <https://x.com/carkerpox/status/1805663482005831818>; Chuck Finley, X, @ChuckToTheFinle (Aug. 11, 2024, 9:53 PM), <https://x.com/FracSlap/status/1802519888432394553>.

<sup>45</sup> Robert Stirling, X, @RobertMSterling (June 25, 2024), <https://x.com/RobertMSterling/status/1805678015185125599>; see also Jacob "Con Artist" Kostecki, X, @KosteckiCon (June 14, 2024), <https://x.com/KosteckiCon/status/180166077730085191>; Collin McLelland, X, @FracSlap (June 16, 2024), <https://x.com/FracSlap/status/1802519888432394553>.

60. Mr. Powers devised a clever sting to prove that Kostecki is LPWhisperer. He hired a former law enforcement official with more than twenty years in law enforcement and more than ten years' experience investigating computer crimes. He knew how criminals operated and how to induce them to expose themselves.

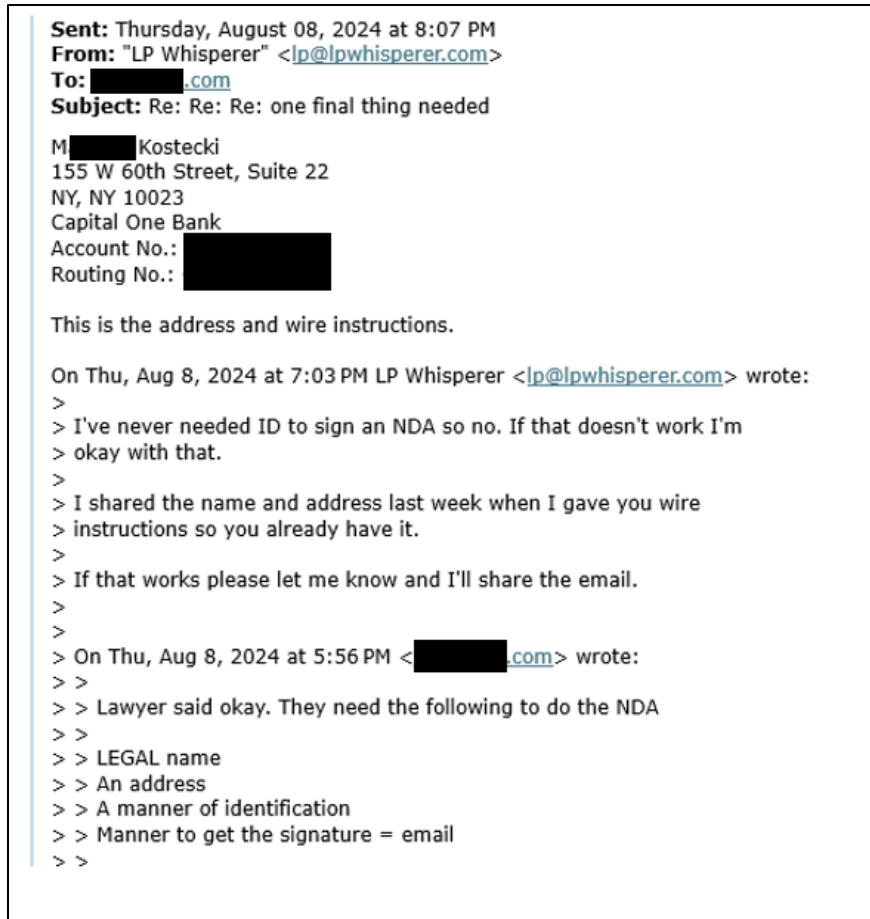
61. The undercover former law enforcement official posed as a disgruntled limited partner who invested in a deal sponsored by Mr. Powers' Fort Capital and messaged LPWhisperer. In the correspondence, he claimed to be interested in bringing a lawsuit against Fort Capital, Mr. Powers's company. Kostecki claimed to have stolen confidential information that could help his lawsuit and offered to sell it to the undercover former law enforcement official. They agreed on a \$15,000 up-front payment and an additional \$30,000 payment after Kostecki provided the alleged confidential information.

62. Kostecki originally demanded payment in cryptocurrency, so that he could hide his identity. However, the undercover former law enforcement official informed Kostecki that he could not make payment in cryptocurrency because he needed to make payment through wire transfer to a bank account in the name of an identifiable person for legal reasons. Kostecki agreed to provide such information and provided the following bank account in the name of his 16-year-old son M.<sup>46</sup> and the address of his daughter's college dormitory:

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<sup>46</sup> Because Kostecki's son is a minor, he is referred to herein by only his initial to protect his identity.





63. M. Kostecki lives with his father and attends high school in Boulder, Colorado. Presumably, Kostecki used his son's name on his (LPWhisperer's) bank account because he has multiple judgments against him and wants to hide his assets from his creditors. Kostecki's adult daughter Zuza Kostecka<sup>47</sup> is a pre-law student at the Lincoln Center Campus of Fordham University. The address listed to the bank account is an address in McMahon Residential Hall, one of Fordham's residence halls on the Lincoln Center campus.<sup>48</sup>

<sup>47</sup> Under Polish naming conventions the letter "a" is typically added to a female's last name, so "Kostecki" is feminized as "Kostecka." See Polish Names, [https://en.wikipedia.org/wiki/Polish\\_names](https://en.wikipedia.org/wiki/Polish_names) (last visited Aug. 27, 2024).

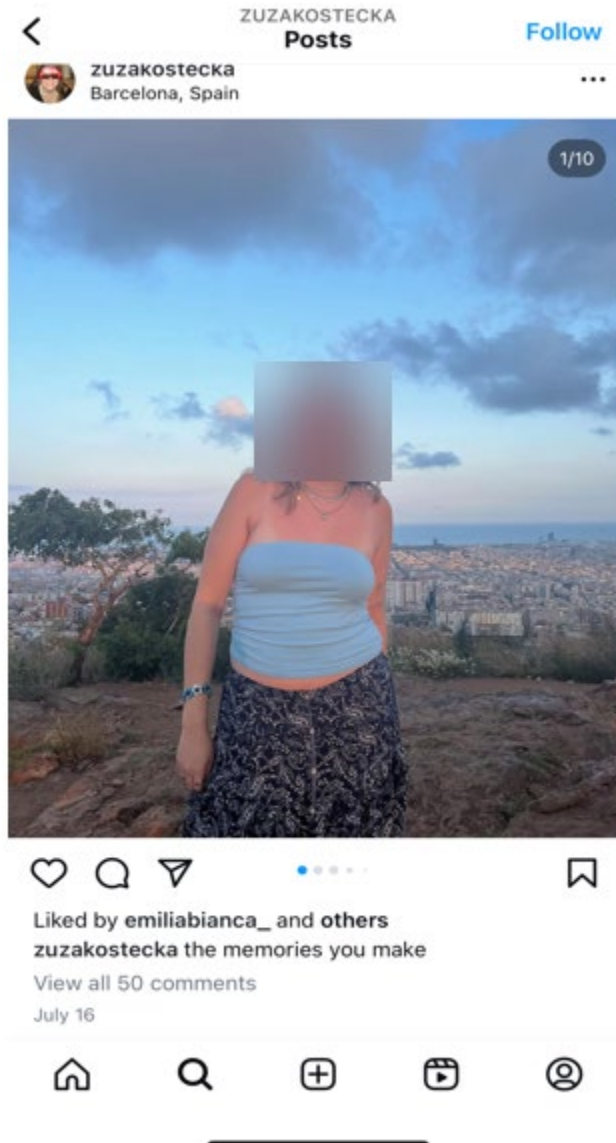
<sup>48</sup> See McMahon Hall, part of Fordham University at Lincoln Center, <https://www.fordham.edu/student-life/living-on-campus/living-on-campus-at-lincoln-center/mcmahon-hall/> (last visited Aug. 27, 2024). Google identifies the address on Kostecki's bank account as McMahon Hall.

64. Kostecki thereby outed himself as LPWhisperer. And that was not Kostecki's only connection to the LPWhisperer account. In a now-deleted August 11, 2024 tweet, LPWhisperer responded to a tweet about visiting Barcelona and whether it was safe and stated that his daughter had "just spent a week" in Barcelona and that it was "very safe."



65. In mid-July 2024—only weeks before—Kostecki's daughter Zuza posted on her public Instagram profile multiple photographs from Barcelona, Spain:<sup>49</sup>

<sup>49</sup> Counsel has blurred Ms. Kostecka's face in the Instagram photo.



66. In sum, Kostecki provided clear evidence that he is LPWhisperer in multiple independent ways—and egregiously dragged his children into his fraudulent scheming.

**Mr. Everett Demands Kostecki Remove His Defamatory Posts  
and Gives Kostecki a Generous Offramp,  
Which Backfires as Kostecki Goes Berserk**

67. Back to Mr. Everett. Although Kostecki's false accusations against Mr. Everett and his business are categorically false, they nonetheless generated intense interest on X—exactly as Kostecki had intended. In fact, some of Kostecki's false and defamatory posts about Mr. Everett

amassed nearly half a million views. Kostecki repeatedly bragged about his massive audience and how his high levels of engagement have caused search engines to place his posts targeting various victims high on their “results” lists—which Kostecki called “search engine optimization.”

68. Because real estate investing requires great trust in the general partner and investors were starting to ask questions about Mr. Everett and his business, Mr. Everett knew he needed to act before Kostecki had permanently ruined his reputation and business.<sup>50</sup>

69. So, Mr. Everett engaged legal counsel and, on August 11, 2024, Mr. Everett’s attorneys sent a letter to Kostecki explaining the incredible success that Everett and S2 Capital had worked hard to build.<sup>51</sup> The letter also explained in great detail (as Mr. Everett had also previously done) the falsity of Kostecki’s accusations against him, and admonished Kostecki of the substantial legal risk and liability to which he exposed himself by intentionally publishing, for his own financial gain, false and defamatory statements about Mr. Everett, including false accusations of crimes:

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<sup>50</sup> Kostecki has also repeatedly threatened to abuse the litigation process to deter lawsuits against him. *See, e.g.*, Jakub Kostecki, (@LPWhisperer), X (Aug. 12, 2024, 3:51 PM), <https://x.com/LPWhisperer/status/1821489401568125089>.

<sup>51</sup> The letter sent by Mr. Everett’s counsel explains in additional detail why Kostecki’s accusations are false and is attached as Exhibit 4.

**B. You Have Knowingly and Repeatedly Made False and Defamatory Statements About S2 Capital and Scott Everett.**

Under the pseudonym “LPWhisperer,” for your own financial gain, you have repeatedly made statements about S2 Capital and Scott Everett that are false and defamatory *per se*.

As examples, you have called Scott “one of the most egregious scammers out there.”<sup>2</sup> You have repeatedly compared him to Bernie Madoff, labeled him a “thief,” and have stated he will soon be in jail. You claimed that his business model is to “recruit[] unsophisticated investors” through a “Bernie Madoff style feeder fund” and then defraud them by “removing” personal guarantees so that there was no recourse.<sup>3</sup>

None of this is true. S2 Capital and Scott have not “stolen” anything. They did not “remove” personal guarantees “so people couldn’t go after [Scott’s] luxury goods.”<sup>4</sup> They did not “force” its LPs into a REIT or cause them to “take a 35% hit”—instead, LPs voted overwhelmingly for the REIT conversion because the numerous benefits were clearly outlined, and all investors were given the right to vote (which they then did with overwhelming support). To the extent that there are business disputes between our clients and third parties, there are legitimate avenues to adjudicate those disputes—courts, for example. Not a single investor has ever sued S2 Capital before. Conversely, baselessly labeling Scott Everett and S2 Capital criminals on X and trying to ruin their reputations is not a legitimate way to decide anyone’s rights.

70. Mr. Everett, although justifiably upset by Kostecki’s defamatory and highly personal accusations, was not vindictive. So, his attorneys’ letter offered Kostecki a veritable “get out of jail free” card: If Kostecki would delete his posts about Mr. Everett and S2 Capital and not repeat them, he could walk away and everyone could just move on.

71. Not only did Kostecki refuse, but he responded with a threat of further escalation of his false and defamatory accusations and a thinly-veiled extortion demand: to get him to stop his defamatory campaign, Mr. Everett would need to purchase the LPWhisperer account from him:

72. First, Kostecki “threw out the hypothetical” that Mr. Everett should buy LPWhisperer to shut it down:

From: LP Whisperer <lp@lpwhisperer.com>  
Sent: Sunday, August 11, 2024 5:54:27 PM  
To: Scott Everett [REDACTED]  
Subject: Re: kids Re: blocked

This is not me making an offer of any kind, just throwing out a hypothetical, but if you're so adamant about having control over the content produced by the LP Whisperer account why not make an offer to buy the media property and then do with this whatever you choose. Maybe that's the easiest off-ramp, take control and do whatever you want.

73. Kostecki then repeatedly revisited that proposal to try to extort a payment out of Mr. Everett. As shown in the following exemplar emails that he sent Mr. Everett, Kostecki combined the “honey” of a buy-out with the “vinegar” of additional public and private attacks, emphasizing that his attacks are difficult to combat, asking: “*What’s your lawyer going to do? Reach out to 200 people, including journalists, and tell them to take down their posts and videos and stories lol.*” Kostecki made clear that the only way out of the public mess he had manufactured—and was continuing to develop—was for Mr. Everett to pay him off: “*If you want control over everything, make me an offer.*” That is textbook extortion.



**From:** LP Whisperer <[lp@lpwhisperer.com](mailto:lp@lpwhisperer.com)>  
**Date:** Monday, August 12, 2024 at 7:11 AM  
**To:** Scott Everett [REDACTED]  
**Subject:** Re: kids Re: blocked

Make me an offer for the account if you want and then naturally you'll have full control over all content, past and future, and can do whatever you want.

I only mention this because it seems like this is really important to you. If it is, you can have ownership and full control over everything later today.

This correspondence is confidential and not for attribution. If you do screenshot this online etc. I'll keep fighting for the vendors and LPs and employees and tenants etc. I added 100+ followers since that bye Jake guy posted yesterday. The people want this story to be told.

**To:** Scott Everett [REDACTED]  
**Subject:** Re: kids Re: blocked

I believe I was clear when I said: "Make me an offer for the account if you want."

I don't want anything. If you want to own lpwhisperer and control the content on the account (that was what the letter addressed to Mr. Kostecki was all about, but it used cheap scare tactics and it wasn't addressed to me lol) make me an offer. If the offer is good enough you can have the account and all the content today and do whatever you want with it. What's your lawyer going to do? Reach out to 200 people, including journalists, and tell them to take down their posts and videos and stories lol. You're going to sue vendors and tenants and employees for speaking out? If you want control over everything, make me an offer.

On Mon, Aug 12, 2024 at 7:48 AM Scott Everett <[REDACTED]> wrote:

You're talking in circles. Tell me what you want, or I'm blocking you, and my attorneys will handle it.

**From:** LP Whisperer <[lp@lpwhisperer.com](mailto:lp@lpwhisperer.com)>  
**Sent:** Monday, August 12, 2024 9:57 AM  
**To:** Scott Everett <[REDACTED]>  
**Subject:** Re: kids Re: blocked

The proposal was clear: it is clear to me that you want to have control over the content. You threatened a poor shmuck to get that control. I said you can make me an offer for lpwhisperer and if we agree you can own the accounts and do whatever you want with the content, both past and future. I don't think I can make it any more clear than that. Your threats don't work but you can make me an offer if you'd like.

On Monday, August 12, 2024, Scott Everett <[REDACTED]> wrote:

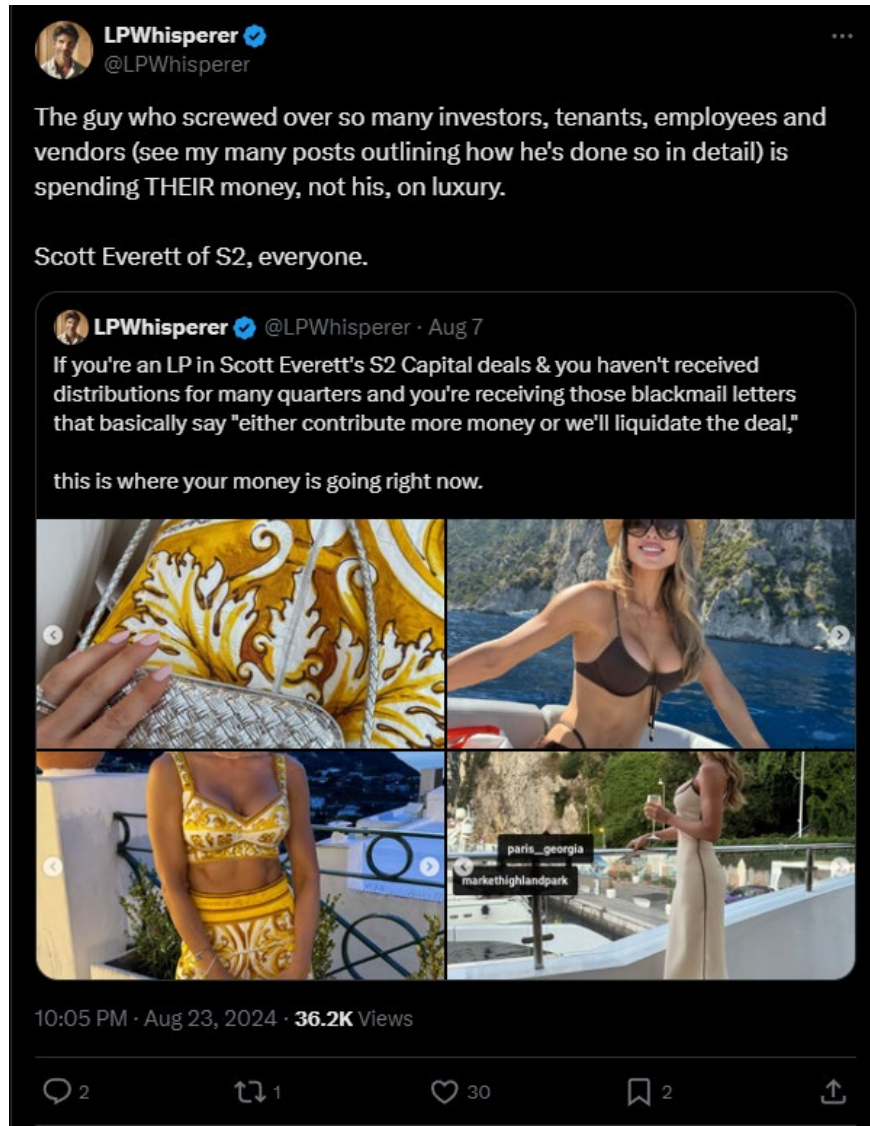
That's not a proposal so please stop emailing me.

74. The next day, Kostecki "pinned" a very personal picture of Mr. Everett and his wife in front of their house so that everyone visiting the LPWhisperer account would see it.<sup>52</sup> He then unleashed false attack after false attack on Mr. Everett and his business, including false claims that that Mr. Everett was building a Dallas, Texas mansion right before filing for bankruptcy,<sup>53</sup> and

<sup>52</sup> He has since pinned other stories to the top of the page.

<sup>53</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 12, 2024, 3:51 PM), <https://x.com/LPWhisperer/status/1823084881552736667>.

that Mr. Everett forced S2 Capital's limited partners and investors into a REIT conversion against their will.<sup>54</sup> Kostecki also repeated the lie that Mr. Everett stole investor money to pay for luxury goods and trips:<sup>55</sup>



75. A few days after Mr. Everett emailed Kostecki his attorneys' demand letter, Mr. Everett had the undercover former law enforcement officer deliver the letter to him in person

<sup>54</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 12, 2024, 11:32 AM), <https://x.com/LPWhisperer/status/1823019790920741279>.

<sup>55</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 23, 2024, 10:05 PM), <https://x.com/LPWhisperer/status/1827180344119816563>.



at his home in Boulder Colorado so that Kostecki could not (falsely) claim that he had not received it. Kostecki still tried to maintain the guise that he was not LPWhisperer, but his face told a different story—he knew he had been caught:



76. Incredibly, even after all the above and being publicly outed as LPWhisperer on X, Kostecki has continued to double down on his attacks. This suit seeks to hold him financially accountable for his campaign of destruction.

\* \* \* \*

77. Scott Everett did not attack Jakub Kostecki or do anything to harm him (or anyone else). Instead, Mr. Everett is a victim of a cynical scammer who would rather steal and extort than

build something of value. Regrettably, he thinks nothing of involving his children to further his crimes.

78. Kostecki must be stopped and LPWhisperer must be shut down. Kostecki has already cast an unjustified cloud over Mr. Everett's reputation and wasted hundreds of hours of his time responding to attacks and answering investors' questions. After all, from the investors' perspective, it makes no sense that someone would spend thousands of hours attacking Mr. Everett unless there was something to the allegations. That is not a normal (or healthy) thing to do. But Kostecki is not normal—he is an unrepentant criminal—and only a public vindication of the truth can repair the damage he has done.

### **CLAIMS**

#### **COUNT ONE:**

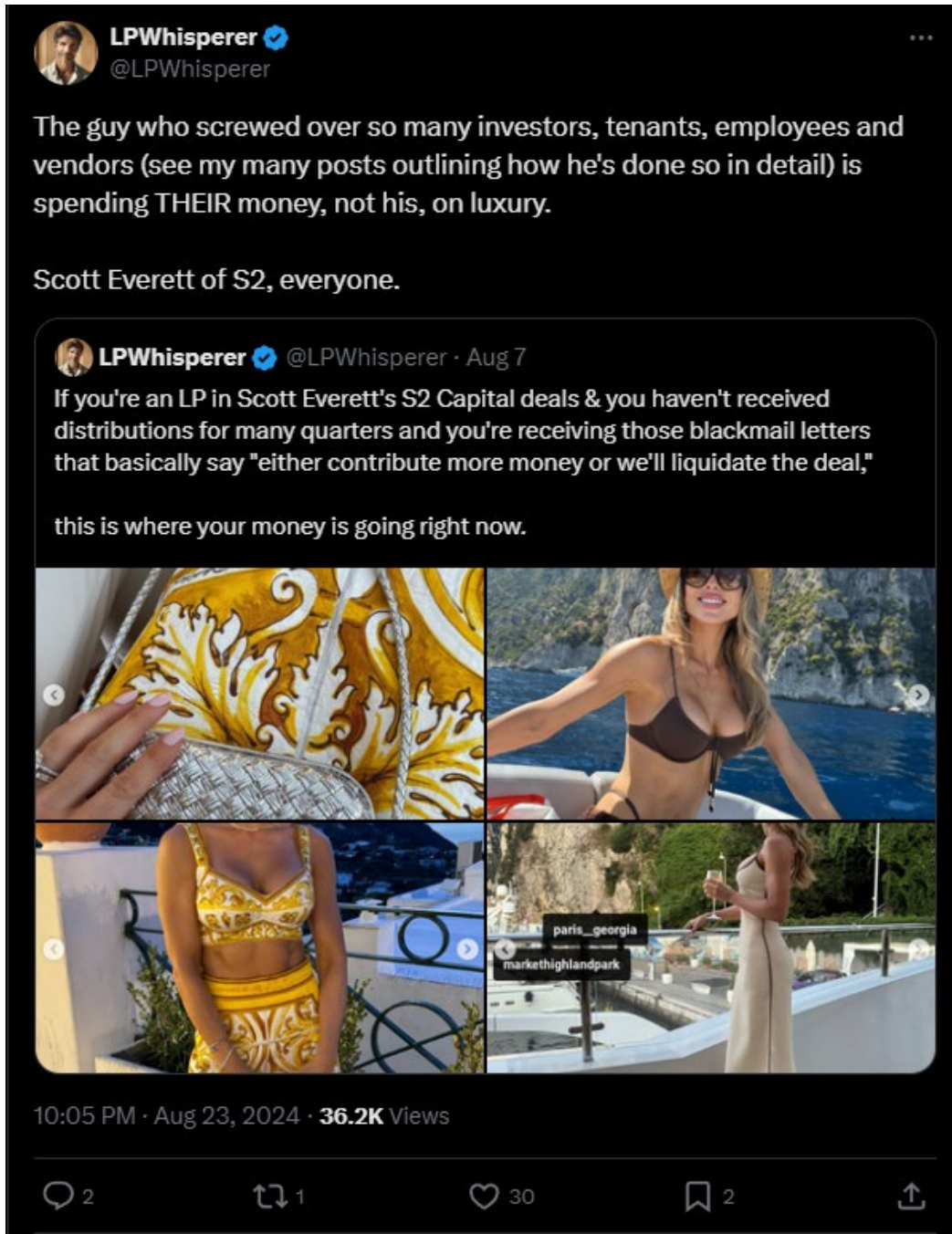
#### **DEFAMATION / DEFAMATION BY IMPLICATION FOR DEFENDANT KOSTECKI'S AUGUST 23, 2024 TWEET**

79. Mr. Everett repeats, re-alleges, and incorporates by reference the allegations in Paragraphs 1-78 as if set forth fully herein.

80. On August 23, 2024, Defendant Jakub Kostecki published the tweet pictured below and attached to this Complaint as Exhibit 5 on X (f/k/a Twitter) to his more than 21,000 followers (the "August 23 Tweet"):<sup>56</sup>

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<sup>56</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 23, 2024, 10:05 PM), <https://x.com/LPWhisperer/status/1827180344119816563>.



81. The August 23 Tweet contains the following false and defamatory statement concerning Mr. Everett (the “August 23 Statement”): “The guy who screwed over so many investors, tenants, employees, and vendors (see my many posts outlining how he’s done so in detail) is spending THEIR money, not his, on luxury. Scott Everett of S2, everyone.”

82. Kostecki published the August 23 Statement to third parties by posting it on his X account where the entire X community—and the general public, including people without X accounts—is able to read it.

83. The August 23 Statement is of and concerning Mr. Everett. Indeed, the August 23 Tweet identifies Mr. Everett by name, including in connection with its false and defamatory Statement.

84. The August 23 Statement is a statement of fact—specifically, as an assertion, whether directly and expressly or by reasonable implication, that Mr. Everett has stolen or misappropriated the money of investors, tenants, employees, and vendors and defrauded them to purchase luxury goods and vacations for himself.

85. The August 23 Statement is reasonably understood by objectively reasonable readers as having the meaning in the prior paragraph. Moreover, there is ample evidence that Kostecki intended the August 23 Statement to be so understood, including the fact that Kostecki specifically stated that Mr. Everett is not spending his own money on luxury goods and travel but rather the money of the “investors, tenants, employees and vendors” who he supposedly “screwed over,” and Kostecki’s emphasis, in capital letters that Mr. Everett is (supposedly) spending “THEIR money” (*i.e.*, money belonging to the “investors, tenants, employees and vendors”).

86. To be clear, the implication of the August 23 tweet, which republished and embedded a tweet from August 7 containing pictures of Mr. Everett’s wife (the “Embedded Tweet”) is that Mr. Everett is stealing from investors, not simply that what he is doing is morally wrong.<sup>57</sup> In the Embedded Tweet and in response to replies thereto, Kostecki repeatedly and

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<sup>57</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 7, 2024, 3:23 PM), <https://x.com/LPWhisperer/status/1821265935912857971>.

explicitly accused Mr. Everett of stealing from his investors. For example, in the Embedded Tweet Kostecki stated “*Sure, it’s just stealing when [Everett’s] LPs are not getting their money while [the Everetts] are just living large.*”<sup>58</sup> In the Embedded Tweet, Kostecki also linked to another tweet in which he labeled Mr. Everett a “*thief*” and claimed that “*While Scott is building luxury residences, flying private and vacationing on the Amalfi Coast in Italy, his investors are getting ripped off on their hard-earned investments.*”<sup>59</sup>

87. The August 23 Statement is false. Mr. Everett did not steal, defraud, or misappropriate others’ money to enrich himself and purchase luxury goods and vacations. Mr. Everett has never engaged in any such misconduct.

88. The August 23 Statement is defamatory, and readers understood it to be defamatory, because it tends to injure Mr. Everett’s reputation, lower him in the estimation of the community and deter third persons from associating or dealing with him; exposes him to public hatred, contempt, ridicule, and financial injury; and impeaches his honesty, integrity, virtue, and reputation.

89. The August 23 Statement is defamatory *per se*, and readers understood it to be defamatory *per se*, because it accuses Mr. Everett of crimes (including theft, fraud, and embezzlement) and because it adversely reflects on Mr. Everett’s fitness to conduct his business as a general partner in the real estate industry, investor, and businessman, including by accusing him of stealing, embezzling, and/or misappropriating investors’, employees’, tenants’, and vendors’ funds and defrauding investors, employees, tenants, and vendors.

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<sup>58</sup> *Id.*

<sup>59</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 9, 2024, 10:22 AM), <https://x.com/LPWhisperer/status/1821914889314824703>.

90. Readers of the August 23 Statement understood it to have the false, defamatory, and defamatory per se meaning described above, as demonstrated by responses to the August 23 Tweet and Embedded Tweet such as the following:

- “Terrible thing to do. But if his options are go back to mid women or defraud to keep this one I can see why he’s sending the letters.”<sup>60</sup>
- “The guy sure knows what having fun is specially at the LPs expense”<sup>61</sup>
- “Of course, it's a real estate deal! It’s like making a deal with a street-level drug dealer, you know you're going to get ripped off (at least) and anyone honest will be taken out or taken advantage of. In real estate, you're either actively conning someone or you’re being conned”<sup>62</sup>
- “Wow not good at all it sounds”<sup>63</sup>

91. Kostecki intended to convey the defamatory (and defamatory *per se*) meaning described above through the August 23 Statement, as indicated by, among other things, his numerous tweets detailed above accusing Mr. Everett of stealing, engaging in self-dealing, committing acts of fraud, acting like Bernie Madoff (who stole billions from his investors), “bilking” investors, and committing “wrongdoing” and a variety of other crimes.

92. Kostecki knew the substantial danger of injury to Mr. Everett and his reputation from the August 23 Statement, which is readily apparent, and in fact intended to cause injury to Mr. Everett by making the statement to later extort him.

93. By publishing the August 23 Statement, Kostecki did cause substantial harm to Mr. Everett and his reputation, including by causing people who read the statement to believe that

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<sup>60</sup> @E\_Rex\_Shawn, X (Aug. 7, 2024, 4:16 PM), [https://x.com/E\\_Rex\\_Shawn/status/1821279146204655996](https://x.com/E_Rex_Shawn/status/1821279146204655996).

<sup>61</sup> @EagleOneWhiskey, X (Aug. 7, 2024, 8:52 PM), <https://x.com/EagleOneWhiskey/status/1821348798225900008>.

<sup>62</sup> Ron Campbell (@BritishFonzy), X (Aug. 7, 2024, 7:36 PM), <https://x.com/BritishFonzy/status/1821329672875245694>.

<sup>63</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 7, 2024, 3:23PM), <https://x.com/LPWhisperer/status/1821265935912857971>.

Mr. Everett engaged in criminal acts and misused investors', employees', tenants', and vendors' funds for his own enrichment.

94. For the reasons set forth in detail above, Kostecki published the August 23 Statement with actual malice, including with actual, subjective awareness of its falsity, as evidenced by the facts that Kostecki:

- (a) Published the August 23 Statement as part of a fraudulent scheme and as part of an effort to extort Mr. Everett by knowingly publishing damaging defamatory falsehoods about Mr. Everett in order to attempt to coerce Mr. Everett to pay him money to retract those falsehoods and cease publishing additional similar falsehoods;
- (b) Pursued and published a preconceived narrative about Mr. Everett and his business (in furtherance of his fraudulent scheme) while consciously disregarding evidence that showed the falsity of that narrative;
- (c) Essentially admitted and acknowledged that the August 23 Statement was false by telling Mr. Everett, in response to his explanation of the falsity of the accusation published in the Statement, that it did not matter whether anything he was publishing was true, because it would damage Mr. Everett regardless;
- (d) Deliberately ignored or disregarded evidence that contradicted the August 23 Statement, including information and evidence provided by Mr. Everett and his counsel and communications from people who had positive experiences with Mr. Everett and his business;
- (e) Intentionally avoided obvious sources of information about Mr. Everett and his business because he knew that those sources would provide information and evidence contradicting the false accusations he desired to publish and did in fact publish in the August 23 Statement;
- (f) Deliberately avoided providing Mr. Everett any opportunity to respond to, rebut, and provide evidence contradicting the August 23 Statement before he published it;
- (g) Published the August 23 Statement despite having no evidence whatsoever to suggest that it is true (because it is false); and
- (h) Refused to retract the accusation in the August 23 Statement despite being presented with substantial evidence of its falsity and instead repeatedly doubling-down on that accusation.



95. Kostecki had no applicable privilege or legal authorization to publish the August 23 Statement, or, if he did, he abused that privilege or authorization.

96. As a direct and proximate result of the Kostecki's August 23 Statement, Mr. Everett has suffered damages including substantial economic damages that will be proven at trial.

97. As a direct and proximate result of Kostecki's August 23 Statement, Mr. Everett has suffered severe reputational harm and has had to spend considerable sums of money to correct the public record about his actions and his business and to mitigate the reputational harm he has suffered, including costs incurred in hiring communications professionals and legal counsel to clear his name in the court of public opinion.

98. Kostecki published the August 23 Statement maliciously, willfully, wantonly, heedlessly, with common law malice, with actual malice, with a conscious, reckless, and willful indifference to Mr. Everett's rights, and with animus and a desire to cause injury to Mr. Everett. Accordingly, punitive damages are appropriate.

99. In view of the foregoing, Mr. Everett is entitled to actual, presumed, and punitive damages in amounts to be specifically determined at trial.

**COUNT TWO—DEFAMATION / DEFAMATION BY IMPLICATION  
FOR DEFENDANT KOSTECKI'S AUGUST 24, 2024 TWEET**

100. Mr. Everett repeats, re-alleges, and incorporates by reference the allegations in Paragraphs 1-99 as if set forth fully herein.

101. On August 24, 2024, Defendant Jakub Kostecki published the tweet pictured below and attached to this Complaint as Exhibit 6 on X (f/k/a Twitter) to his more than 21,000 followers (the "August 24 Tweet"):<sup>64</sup>

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<sup>64</sup> Jakub Kostecki, (@LPWhisperer), X (Aug. 24, 2024, 7:00 PM), <https://x.com/LPWhisperer/status/1827481166410125456>.





102. The August 24 Tweet contains the following false and defamatory statement concerning Mr. Everett (the “August 24 Statement”): “This is the essence of my conflict with Chris Powers and Scott Everett. They’ve taken money from people and they haven’t done what they said they would do with it, instead they’ve funded lavish lifestyles[.]” The “this” referred to in the August 24 Statement was a tweet (republished and included directly below Kostecki’s Statement) that alleged that Mr. Everett had “defrauded [] vulnerable investors” and that the trip was “paid for by the people he’s scammed.”

103. Kostecki published the August 24 Statement to third parties by posting it on his X account where the entire X community—and the general public, including people without X accounts—is able to read it.

104. The August 24 Statement is of and concerning Mr. Everett. Indeed, the August 24 Tweet identifies Mr. Everett by name, including in connection with its false and defamatory Statement.

105. The August 24 Statement is a statement of fact—specifically, as an assertion, whether directly and expressly or by reasonable implication, that Mr. Everett has “taken money from people and they haven’t done what they said they would do with it,” in other words, lied to investors and stolen or misappropriated their money.

106. The August 24 Statement is reasonably understood by objectively reasonable readers as having the meaning in the prior paragraph. Indeed, the August 24 Statement’s “retweeting” of a tweet explicitly alleging that Mr. Everett “defrauded [] vulnerable investors” makes plain the defamatory meaning. Kostecki endorses (and republishes) that tweet by writing that it states the “essence” of his conflict with Mr. Everett, and by adding additional false statements including that Mr. Everett had “taken” others’ money to “fund[ a] lavish lifestyle[.]” Kostecki’s defamatory meaning is further emphasized by his intentional use of the phrase “funded lavish lifestyles[.]” as that phrase is often included in news stories and/or criminal indictments relating to fraud.<sup>65</sup>

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<sup>65</sup> See, e.g., *Influencer Accused of Using Fraud to Fund Lavish Lifestyle*, NBC10 Boston (May 12, 2021), <https://www.nbcboston.com/news/local/instagram-influencer-who-stole-mass-residents-identity-pleads-guilty-to-1m-covid-relief-fraud/2989110/> (news report alleging that influencer applied for \$900,000 in fraudulent loans to “fund lavish lifestyle”); Carol Robinson, *Vestavia Hills man must pay \$12 million, serve 15 years in father and son fraud that funded lavish lifestyle*, Advance Local (May 26, 2022), <https://www.al.com/news/2022/05/vestavia-hills-man-must-pay-12-million-serve-15-years-in-father-and-son-fraud-that-funded-lavish-lifestyle.html> (news report on criminal who stole \$12 million and was sentenced to 15 years in prison for fraud that “funded lavish lifestyle”); Elizabeth Rosner, *NY mother and daughter scammed \$850K in credit card con to fund lavish lifestyle: indictment*, NT Post (Aug. 22, 2022), <https://nypost.com/2022/08/29/ny-mother-and-daughter-ran-credit-card-charge-scam-to-fund-lavish-lifestyle-indictment/> (reporting on indictment alleging credit card con “to fund lavish lifestyle”).

107. These statements in the tweet are defamatory *per se* because they allege that Mr. Everett is dishonest in his business dealings, has defrauded investors and/or committed crimes, which injures Mr. Everett in his trade and profession.

108. The August 24 Statement is defamatory, and readers understood it to be defamatory, because it tends to injure Mr. Everett's reputation, lower him in the estimation of the community and deter third persons from associating or dealing with him; exposes him to public hatred, contempt, ridicule, and financial injury; and impeaches his honesty, integrity, virtue, and reputation.

109. The August 24 Statement is defamatory *per se*, and readers understood it to be defamatory *per se*, because it accuses Mr. Everett of crimes (including theft, fraud, and/or embezzlement) and because it adversely reflects on Mr. Everett's fitness to conduct his business as a general partner in the real estate industry, investor, and businessman, including by accusing him of stealing, embezzling, and/or misappropriating others' funds and defrauding investors, employees, tenants, and vendors.

110. Readers of the August 24 Statement understood it to have the false, defamatory, and defamatory *per se* meaning described above, as demonstrated by responses to the August 24 Tweet such as the following:

- “The situation between you and them reminds me of how liberals have treated Trump over the past decade. Anytime Trump questions a nonsensical policy, they accuse him of being a sex offender. At the end of the day, the truth is always revealed.”<sup>66</sup>
- “Why don't the folks that have lost money take up this fight? They should sue, use the media, and apply pressure in a myriad of ways...”<sup>67</sup>

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<sup>66</sup> The Rogue Politico, (@politikaljunki), X (Aug. 24, 2024, 7:07 PM), <https://x.com/politikaljunki/status/1827482801060405279>.

<sup>67</sup> @theyhatemetoo, X (Aug. 24, 2024, 7:11 PM), <https://x.com/theyhatemetoo/status/1827483859191025872>.

111. Kostecki intended to convey the defamatory (and defamatory *per se*) meaning described above through the August 24 Statement, as indicated by, among other things, his numerous tweets detailed above accusing Mr. Everett of stealing, engaging in self-dealing, committing acts of fraud, acting like Bernie Madoff (who stole billions from his investors), “bilking” investors, and committing “wrongdoing” and many other crimes.

112. Kostecki knew the substantial danger of injury to Mr. Everett and his reputation from the August 24 Statement, which is readily apparent, and in fact intended to cause injury to Mr. Everett by making the statement.

113. By publishing the August 24 Statement, Kostecki did cause substantial harm to Mr. Everett and his reputation, including by causing people who read the statement to believe that Mr. Everett engaged in criminal acts and misused investors’, employees’, tenants’, and vendors’ funds for his own enrichment.

114. For the reasons set forth in detail above, Kostecki published the August 24 Statement with actual malice, including with actual, subjective awareness of its falsity, as evidenced by the facts that Kostecki:

- (a) Published the August 24 Statement as part of a fraudulent scheme and as part of an effort to extort Mr. Everett by knowingly publishing damaging defamatory falsehoods about Mr. Everett in order to attempt to coerce Mr. Everett to pay him money to retract those falsehoods and cease publishing additional similar falsehoods;
- (b) Pursued and published a preconceived narrative about Mr. Everett and his business (in furtherance of his fraudulent scheme) while consciously disregarding evidence that showed the falsity of that narrative;
- (c) Essentially admitted and acknowledged that the August 24 Statement was false by telling Mr. Everett, in response to his explanation of the falsity of the accusation published in the Statement, that it did not matter whether anything he was publishing was true, because it would damage Mr. Everett regardless;
- (d) Deliberately ignored or disregarded evidence that contradicted the August 24 Statement, including information and evidence provided by Mr. Everett and his

counsel and communications from people who had positive experiences with Mr. Everett and his business;

- (e) Intentionally avoided obvious sources of information about Mr. Everett and his business because he knew that those sources would provide information and evidence contradicting the false accusations he desired to publish and did in fact publish in the August 24 Statement;
- (f) Deliberately avoided providing Mr. Everett any opportunity to respond to, rebut, and provide evidence contradicting the August 24 Statement before he published it;
- (g) Published the August 24 Statement despite having no evidence whatsoever to suggest that it is true (because it is false); and
- (h) Refused to retract the accusation in the August 24 Statement despite being presented with substantial evidence of its falsity and instead repeatedly doubling-down on that accusation.

115. Kostecki had no applicable privilege or legal authorization to publish the August 24 Statement, or, if he did, he abused that privilege or authorization.

116. As a direct and proximate result of Kostecki's August 24 Statement, Mr. Everett has suffered substantial economic damages that will be proven at trial.

117. As a direct and proximate result of Kostecki's August 24 Statement, Mr. Everett has suffered severe reputational harm and has had to spend considerable sums of money to correct the public record about his actions and his business and to mitigate the reputational harm he has suffered, including costs incurred in hiring communications professionals and legal counsel to clear his name in the court of public opinion.

118. Kostecki published the August 24 Statement maliciously, willfully, wantonly, heedlessly, with common law malice, with actual malice, with a conscious, reckless, and willful indifference to Mr. Everett's rights, and with animus and a desire to cause injury to Mr. Everett. Accordingly, punitive damages are appropriate.

119. In view of the foregoing, Mr. Everett is entitled to actual, presumed, and punitive damages in amounts to be specifically determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Mr. Everett respectfully requests that the Court enter an award in his favor, and against Defendant Kostecki, as follows:

- (1) Award Mr. Everett compensatory and actual damages in amounts to be proven at trial;
- (2) Award Mr. Everett presumed and special damages in amounts to be proven at trial;
- (3) Award Mr. Everett punitive and/or exemplary damages in an amount to be proven at trial;
- (4) Awarding Mr. Everett his reasonable expenses, including but not limited to reasonable attorneys' fees, incurred to mitigate the harm caused by Defendant Kostecki's defamation and tortious conduct, including but not limited to money spent in seeking retraction of Defendant Kostecki's false and defamatory statements and money spent in seeking to counteract the public impact of Defendant Kostecki's false and defamatory statements;
- (5) Award Mr. Everett his reasonable costs and attorneys' fees spent in bringing this action to vindicate his reputation and good name;
- (6) Issue a narrowly-tailored injunction that (a) requires Defendant Kostecki to remove and retract any statements adjudicated in this action to be defamatory and (b) prohibits Defendant Kostecki from repeating and republishing those statements;
- (7) Award Mr. Everett all costs, disbursements, fees, and pre- and post-judgment interest as authorized by law; and

- (8) Award Mr. Everett such other and additional relief and remedies as the Court may deem just and proper.

**JURY DEMAND**

Plaintiffs demand a jury on all claims and issues triable by way of jury.

Dated: August 29, 2024

Respectfully Submitted,

/s/ David Sillers

Thomas A. Clare, P.C (*pro hac vice* forthcoming)

David Sillers (Texas Bar No. 24072341)

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